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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,370	04/03/2006	Raul Aguinaga	053990-0070	2270

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EXAMINER

HAN, JASON

ART UNIT	PAPER NUMBER
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2875

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04/03/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/574,370	Applicant(s) AGUINAGA ET AL.	
	Examiner JASON M. HAN	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-15 is/are rejected.
- 7) ☒ Claim(s) 8 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20060619</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The following claims have been rejected in light of the specification, but rendered the broadest interpretation as stated by the Applicant within the context of the body of the claim language and as construed by the Examiner [MPEP 2111].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miki et al. (U.S. Publication 2002/0018348 A1) in view of Burton (U.S. Patent 6,773,153 B2).
2. With regards to Claim 1, Miki discloses a lamp adjuster including:
 - A housing [Figures 1-3: (13)];
 - A motor [Figures 1-3: (110)] attached to the housing;
 - A drive [Figures 1-3: (20)] journaled at least partially by the housing;
 - An output shaft [Figures 1-3: (18)] passing at least partially through the operably connected to the motor; and
 - A ball [Figures 1-3: note end of (18)] positioned with respect to an end of the output shaft, motorized movement of the ball accomplished by operation of the motor

[Paragraphs 42-43] and manual movement of the ball accomplished by rotation of the drive [Paragraph 46].

Miki does not specifically teach the drive being a gear (mechanism).

Burton teaches a gear [Figures 2, 9: (30)] that is driven to move an output shaft [Figure 2: (24)].

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the drive of Miki to be a gear, as principally taught by Burton, in order to glean from the mechanical advantage of the gear as a simple machine.

3. With regards to Claim 2, Miki in view of Burton discloses the claimed invention as cited above. In addition, Miki teaches the housing [Figures 1-3: (13)] including a drive input locator [note Figure 1] into which a driver [Paragraph 46] can be inserted for rotating the drive/gear.

4. With regards to Claim 3, Miki in view of Burton discloses the claimed invention as cited above. In addition, Miki teaches the drive/gear [Figures 1-3: (20)] being an anti-rotation gear operably connected to the output shaft such that the anti-rotation gear prevents rotation of the output shaft when the motor is operating and such that rotating the anti-rotation gear causes rotation of the output shaft [Paragraph 46 - if a tool is provided in 20a, then rotation would be prohibited]. It has also been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

5. With regards to Claim 4, Miki in view of Burton discloses the claimed invention as cited above. In addition, Miki teaches the drive/gear [Figures 1-3: (20)] being a drive gear.

6. With regard to Claims 5-7, Miki in view of Burton discloses the claimed invention as cited above. Note that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). In the instant case, Miki satisfies the actual claimed structure of Claims 5-7, and teaches the ball is on an end of a ball insert [Figures 1-3: (18, 18b)]; a clutching mechanism [Figures 1-3: (15)] is disposed between the ball insert and the drive gear; wherein the clutching mechanism includes clutching tabs [Figures 1-3: (18b)] formed on the ball insert.

7. Claims 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miki et al. (U.S. Publication 2002/0018348 A1) in view of Burton (U.S. Patent 6,773,153 B2).

8. With regards to Claim 9, Miki discloses a lamp assembly including:

- A mounting bracket [Figures 1-3: (111 or 19, 25)];
- A lamp [Figures 1-3; Abstract; Paragraph 45] pivotally positioned on the mounting bracket; and
- An adjuster including:
 - = A housing [Figures 1-3: (13)];
 - = A motor [Figures 1-3: (110)] attached to the housing;
 - = A drive [Figures 1-3: (20)] journaled at least partially by the housing;
 - = An output shaft [Figures 1-3: (18)] passing at least partially through the operably connected to the motor; and
 - = A ball [Figures 1-3: note end of (18)] positioned with respect to an end of the output shaft, motorized movement of the ball accomplished by operation of

the motor [Paragraphs 42-43] and manual movement of the ball accomplished by rotation of the drive [Paragraph 46].

Miki does not specifically teach the drive being a gear (mechanism).

Burton teaches a gear [Figures 2, 9: (30)] that is driven to move an output shaft [Figure 2: (24)].

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the drive of Miki to be a gear, as principally taught by Burton, in order to glean from the mechanical advantage of the gear as a simple machine.

9. With regards to Claim 10, Miki in view of Burton discloses the claimed invention as cited above. In addition, Miki teaches the housing [Figures 1-3: (13)] including a drive input locator [note Figure 1] into which a driver [Paragraph 46] can be inserted for rotating the drive/gear.

10. With regards to Claim 11, Miki in view of Burton discloses the claimed invention as cited above. In addition, Miki teaches the drive/gear [Figures 1-3: (20)] being an anti-rotation gear operably connected to the output shaft such that the anti-rotation gear prevents rotation of the output shaft when the motor is operating and such that rotating the anti-rotation gear causes rotation of the output shaft [Paragraph 46 - if a tool is provided in 20a, then rotation would be prohibited]. It has also been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

11. With regards to Claim 12, Miki in view of Burton discloses the claimed invention as cited above. In addition, Miki teaches the drive/gear [Figures 1-3: (20)] being a drive gear.

12. With regard to Claims 13-15, Miki in view of Burton discloses the claimed invention as cited above. Note that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). In the instant case, Miki satisfies the actual claimed structure of Claims 13-15, and teaches the ball is on an end of a ball insert [Figures 1-3: (18, 18b)]; a clutching mechanism [Figures 1-3: (15)] is disposed between the ball insert and the drive gear; wherein the clutching mechanism includes clutching tabs [Figures 1-3: (18b)] formed on the ball insert.

Allowable Subject Matter

13. Claims 8 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. The following is a statement of reasons for the indication of allowable subject matter: With regard to Dependent Claims 8 and 16, the prior art fails to teach or suggest the combination of structural limitations in the preceding claims and therein, whereby the actual structure for the function provided in Claims 5 and 13, respectively, have been clearly drawn out such that the prior art fails to teach the ball insert including clutching tabs that engage the drive gear.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON M. HAN whose telephone number is (571)272-2207. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason M Han
Examiner
Art Unit 2875

JMH
March 28, 2008

/Sandra L. O'Shea/
Supervisory Patent Examiner, Art Unit 2875